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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,335	05/16/2005	Etienne Guay	1056869	3769
28735 7590 01/14/2008 OSLER, HOSKIN & HARCOURT LLP (BRP) 2100 - 1000 DE LA GAUCHETIERE ST. WEST MONTREAL, QC H3B4W5 CANADA			EXAMINER AVERY, BRIDGET D	
			ART UNIT 3618	PAPER NUMBER
			NOTIFICATION DATE 01/14/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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ipmtl@OSLER.COM

Office Action Summary	Application No. 10/505,335	Applicant(s) GUAY ET AL.	
	Examiner Bridget Avery	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/23/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-7, 10, 11, 13, 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ethier (US Patent 4,662,468) in view of Horiike et al. (US Patent 4,887,688).

Ethier teaches a three wheel vehicle, including: a frame (1) having a front portion and a rear portion; a pair of front wheels (3, 4) rotatably connected to the front portion of the frame; a single rear wheel (7) rotatably connected to the rear portion of the frame; a straddle type vehicle seat (5) connected to the frame (1); a structure defining a storage compartment (note the storage compartment containing the engine 2) therein disposed at the front portion of the frame (1) between the pair of front wheels (3, 4); an engine (2) connected to the frame (1), where the engine (2) provides power to drive at least one of the single rear wheel (7) and the pair of front wheels (3, 4). the storage compartment provides access to an engine service center. Re claim 21, a fairing is clearly shown in Fig. 2.

Ethier lacks the teaching of a radiator.

Horiike et al. teaches a first and second radiator for cooling the engine, wherein the first radiator is located on one side of a frame and a second radiator is located on an opposite side of the frame. The second radiator is spaced apart from and is fluidly connected to the first radiator. Each of the first and second radiators are located rearwardly of a front wheel. Each of the first and second radiators is disposed at an angle with respect to a vertical axis of the vehicle. Each of the first and second radiators is disposed at an angle with respect to a longitudinal axis of the vehicle. Each of the first and second radiators is disposed substantially parallel to a longitudinal axis of the vehicle. Horiike et al. also teaches a fairing assembly enclosing at least the front portion of the frame, the fairing assembly including a first radiator enclosure for enclosing at least a portion of the first radiator and a second radiator enclosure for enclosing at least a portion of the second radiator.

Based on the teachings of Horiike et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add radiators to effectively cool the engine.

2. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ethier ('468) and Horiike et al. ('688) as applied to claim 1 above, and further in view of Kido et al. (US Patent 6,508,326)

The combination of Ethier and Horiike et al. teach the features described above.

The combination of Ethier and Horiike et al. lack the teaching of a fan.

Kido et al. teaches a fan (22) mounted on each radiator (12).

Based on the teachings of Kido et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a fan to each radiator to efficiently cool the engine by introducing cooling air into each radiator.

3. Claim 11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ethier ('468) and Horiike et al. ('688) as applied to claim 10 above, and further in view of Hamane et al. (US Patent 4,564,081).

The combination of Ethier and Horiike et al. teach the features described above.

The combination of Ethier and Horiike et al. lack the teaching of a closable vent, a cover and a storage compartment.

Hamane et al. teaches closeable vents (70), a cover (50) and a storage compartment (48). See col. 3, lines 54-66.

Based on the teachings of Hamane et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to design the vents to be closable to permit the rider to allow or restrict the flow of air to enhance comfort. It would have been obvious to one having ordinary skill in the art, at the time the invention was made to add a cover to protect the contents within the storage compartment and a compartment for convenience. The provision of a removable compartment would have been obvious to one having ordinary skill in the art since it has been held to be within the general knowledge of one having ordinary skill in the art to make an element separable.

4. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levasseur (US Patent 5,564,517) in view of Hamane et al. ('081)

Levasseur teaches a straddle type three wheel vehicle (S), including: a tubular frame having a front portion and a rear portion, the tubular frame having a head pipeless construction; a pair of front wheels (18, 19) rotatably connected to the front portion of the frame; a single rear wheel (34) rotatably connected to the rear portion of the frame, each of the pair of front wheels and the single rear wheel (34) including a tire suitable for road use; handlebars operatively rotatable connected to the frame and operatively connected to the front wheels (18, 19) to steer the vehicle; a straddle vehicle seat connected to the frame, the seat being sized to accommodate at least two riders. An engine is inherent. A vehicle suspension system (21, 22) operatively connected to at least one of the pair of front wheels (18, 19) and the single rear wheel.

Levasseur lacks the teaching of a storage compartment.

Hamane et al. teaches a storage compartment.

Based on the teachings of Hamane et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made to add a compartment having a cover for convenience. The provision of a removable compartment would have been obvious to one having ordinary skill in the art since it has been held to be within the general knowledge of one having ordinary skill in the art to make an element separable. Re claim 20, the provision of a tire having a pressure between 20 psi and 50 psi represents an optimum range which has been held to be within the general skill of one having ordinary skill in the art.

5. Claim 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levasseur ('517) and Hamane et al. ('081) as applied to claim 17 above, and further in view of Gessinger (US Patent 5,167,294).

The combination of Levasseur and Hamane et al. teach the features described above.

The combination of Levasseur and Hamane et al. lack the teaching of radiators.

Gessinger teaches a pair of radiators. A first radiator is located on one side of the vehicle frame and a second radiator is located on an opposite side of the frame.

Based on the teachings of Gessinger, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to add radiators the combination of Levasseur and Hamane et al. to effectively cool the engine.

Response to Arguments

6. Applicant's arguments filed October 9, 2007 have been fully considered but they are not persuasive. Contrary to applicant's arguments, the structure taught by Ethier ('468) that houses the engine and the transmission is a storage compartment. Horiike ('688) is not relied upon for the teaching of a pair of front wheels. Instead, Horiike is relied upon for the teaching of a radiator system. Horiike teaches two radiators. Kido ('326) is not relied upon for the teaching of a storage compartment or for the teaching of a pair of front wheels. Instead, Kido is relied upon for teaching fans mounted on

radiators. Further, the teachings of Hamane et al. ('081), Levasseur ('517) and Gessinger ('294) are clearly stated above.


Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP.


§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.


Avery

January 7, 2008


LESLEY D. MORRIS
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